

OLC 07800

26 JUL 1978

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E.P.
HSC/

Honorable Edward P. Boland, Chairman
Permanent Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to raise serious concerns that I have with H.R. 12171, the "Federal Accounting and Auditing Act of 1978," which was ordered reported on 19 July by the Committee on Government Operations.

H.R. 12171 would, among other things, allow the General Accounting Office unlimited access to all information required to verify confidential funds expenditures, including those currently made by Director of Central Intelligence certification pursuant to authority in subsection 8(b) of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403j(b)). Not only would this legislation supersede this "8(b) Authority," but it would also directly contravene the Director's statutory authority to protect sensitive intelligence sources and methods from unauthorized disclosure (section 403(d)(3) of the National Security Act of 1947, as amended; 50 U.S.C. 102(d)(3)). It is essential that the "8(b) Authority" be preserved. In the future as in the past, it will be necessary to undertake actions of extreme sensitivity for which the withholding of information from all except those directly involved with the activities or in the oversight process is essential to the success of the action.

The bill was introduced on 18 April 1978 by Chairman Brooks of the Committee on Government Operations. The bill was initially referred to the Government Operations Subcommittee on Legislation and National Security which, after one day of testimony by the Department of Justice on 26 June, referred the bill to the full Committee without mark-up. Deputy Assistant Attorney General Lawrence Hammond presented testimony, coordinated and concurred in by CIA, which stressed that unrestricted access by GAO to confidential funds expenditures is problematic from a constitutional viewpoint since it threatens the balance between the Executive and the Legislative Branches, and infringes upon the President's privilege of confidentiality in the diplomatic, military and national security spheres. In addition, OMB and CIA each forwarded reports in opposition to the bill to Chairman Brooks.

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H.R. 12171 directly addresses an essential authority of the Director of Central Intelligence; if enacted, it would have a major adverse impact on the capability of this Agency to fulfill its vital mission. Based on your Committee's jurisdiction over such legislative matters under H. Res. 658, I would urge that you request the bill be sequentially referred to your Committee for immediate consideration of the intelligence equities at stake. We are prepared to present our case in full before the Permanent Select Committee on Intelligence.

I have enclosed a copy of this Agency's views letter which was sent to Chairman Brooks. Thank you for your attention to this very important matter; I look forward to further discussions on it.

Sincerely,

/S/

STANSFIELD TURNER

Enclosure

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